

Day 2, July 11, 2002: Waste Water Management, Wetlands, & Watersheds

Presentation: "Storm Water Phase II Permit Requirements" in two parts

Speakers: Mr. Eugene Bromley, EPA Region 9, and Mr. Bruce Fujimoto, California State Water Resources Control Board (SWRCB)

Eugene Bromley is the storm water coordinator for EPA Region 9, which includes the States of California, Arizona, Nevada, and Hawaii, and the Trust Territories.

Mr. Bromley and Mr. Fujimoto discussed new requirements pertaining to the Storm Water Phase II regulations.

Part 1 - Presented by Mr. Eugene Bromley

Handout: "Phase II Storm Water Program"

Notes: Mr. Bromley and Mr. Fujimoto discussed new requirements pertaining to the Storm Water Phase II regulations (Electronic copy not available)

Mr. Bromley noted that the leading causes of water impairment to rivers/streams and lakes are agriculture, hydro modification, and urban runoff. Leading causes of impairment to estuaries are POTWs, urban runoff, and atmospheric deposition.

The Phase II storm water requirements expand municipal coverage and requirements, regulate construction sites less than five acres, impose industrial/commercial coverage, and provide a no exposure incentive. Urbanized areas are now regulated under the Phase II requirements. Urbanized areas are defined as consisting of the core city and urban fringe with population of 50,000 or more as determined by the Census Bureau (1990 or 2000 census). Many military bases are likely part of urbanized areas. Also included are designated municipalities outside urbanized areas with a population of at least 10,000 and population density of 1,000 people per square mile. In addition, municipalities that contribute substantial pollutant loads to regulated systems through interconnections and municipalities designated by petition are also covered. Federal and state facilities are also municipal separate storm sewer systems (MS4). The 2000 census results identify 76 new urbanized areas.

Municipal waivers are available. Mr. Bromley noted that it is possible for municipalities with a population less than 1,000 to obtain a waiver unless the state determines it is a significant source of pollutants. However, it would be difficult for larger municipalities to obtain waivers.

The Phase II storm water program contains six minimum requirements, including:

- Publish education/outreach

- Public involvement
- Illicit discharge elimination
- Construction site erosion control
- Post-construction storm water management
- Good housekeeping/pollution prevention for municipal operations.

The EPA model general permit for small MS4s is available at EPA's website at <http://www.epa.gov/NPDES/stormwater>. An important component of the permit is the storm water management program. The program's intent is to reduce pollutants to the maximum extent practicable and comply with water quality standards. The program includes the six minimum measures, rationale statements for best management practices (BMP) selection, and measurable goals for each BMP.

Municipal permit applications for urbanized areas are required by March 10, 2003.

NPDES permits are now required for construction sites between 1 and 5 acres. Smaller sites may be designated based on water quality impacts. Small construction permit waivers are available during periods of the year when rainfall erosivity factor "R" in the revised universal soil loss equation is less than 5 or when controls are not needed based on a TMDL or equivalent analysis for pollutants of concern for areas not requiring a TMDL.

Discussion:

Regarding	Questions/Remarks	Response (from Mr. Bromley)
Regulatory authority	How can states have a different view of the standard?	Mr. Bromley replied that states can have more stringent requirements.
Regulatory authority	Guam and Saipan are now in urbanized areas. Who is the regulatory authority?	EPA is the regulatory authority for Guam and Saipan.
Eligibility for exemption status	How can a facility be eligible for exemption from the requirements?	To be eligible for an exemption, you must demonstrate that you won't cause or contribute to exceeding a water quality standard.
Phase II and Bureau of Land Management (BML)	Large bases, such as Vandenberg Air Force Base, have large remote areas far from urban areas. Would activities that might affect storm water (e.g. firebreaks) require a permit?	Permits are required when there is a threat to water quality. A remote area outside of an urban area, which has no threat to water quality would not need a permit. You should address a remote area (one outside an urban area) only if water quality might be a problem.
Permit	Who is responsible for	The responsibility for obtaining the

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responsibility	obtaining a permit when there is a nebulous property transfer at a closing base, concerning an operator with a long-term lease and the Air Force?	<p>permit lies with the operator of that land and not the landowner, because the land operator is the best person to implement best management practices on that property.</p> <p>If the Air Force property has not been transferred to the community yet, then the Air Force still has responsibility as the permittee. However, if the community were the land operator of the Air Force-owned property, then the community would be the permittee, since they would be in the best place to implement best management practices.</p>
Permit responsibility	For a large installation with a right-of-way for public utility, who would be responsible for obtaining the permit?	Since land ownership is not the criteria for who should request a permit, the utility company is likely responsible for obtaining the permit. Whoever is doing something on the land would be the better permittee.
Source for maps	Are urbanized area maps on your website?	No, the maps are from the census bureau website. Someone with at least 10 years' experience with geographic information systems would have no trouble with these files.
Construction permits	Relative to construction sites, what is the definition of a "disturbed" area?	Disturbed areas include excavations, all land area that is disturbed, stockpiles of dirt, and areas where construction equipment is parked. You need to include all areas being disturbed one way or another, i.e., where surface dirt is being disturbed.

Part 2 - Presented by Mr. Bruce Fujimoto

Handout: "Phase II: Storm Water Program"

Notes:

Mr. Fujimoto discussed the construction site storm water runoff control requirement covering construction activities at sites less than 5 acres. He noted that an NPDES permit is required for construction sites between 1 and 5 acres.

Mr. Fujimoto briefly discussed the six minimum control measures.

- The public education requirement involves educating the public on impacts of storm water and steps the public can take to reduce pollutants in storm water runoff.
- The public participation requirements involve complying with state and local public notice requirements; allowing the public to review and comment on the permit and storm water management plan (SWMP); and involving the public in the implementation of the SWMP.
- Illicit discharge detection and elimination requirements include maintaining a storm sewer system map, developing an ordinance or other mechanism prohibiting non-storm water discharges; developing a plan to detect and address non-storm water discharges; and educating the public on the hazards of illicit discharges.
- Construction site controls involve developing an enforceable ordinance or other mechanism to require erosion and sediment controls at construction sites; requiring construction site operators to use BMPs; reviewing site plans and BMPs; developing public comment and complaint procedures; and developing site inspection and enforcement procedures.
- Post construction management includes developing an ordinance or other mechanism requiring long-term BMPs to capture and/or promote infiltration of storm water, design BMPs, and ongoing maintenance of BMPs.
- Pollution prevention/good housekeeping requirements include examining municipal activities that have the potential to cause pollution in storm water; implementation of BMPs to reduce this potential; and training employees.

Mr. Fujimoto provided the following SWRCB contacts for Phase II storm water requirements:

- Bruce Fujimoto, fujib@dwq.swrcb.ca.gov, (916) 341-5523
- Jarma Bennett, bennj@dwq.swrcb.ca.gov, (916) 341-5532
- Patrick Otsuji, otsupdwq@swrcb.ca.gov, (916) 341-5292

Discussion:

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Statewide General Permit	What is the cost associated with obtaining a permit for construction activities?	<p>Current permit costs are as follows:</p> <ul style="list-style-type: none"> • \$250 for industrial/construction area in an urbanized area • \$500 for industrial/construction area in an outlying area. <p>It is still unclear if these fees will remain the same, due to California's current budget situation. A fee increase might be likely. A Notice of Intent would be issued for an increase to the Phase II permit fees.</p> <p>Separate permits are required for construction sites less than 5 acres and sites greater than 5 acres.</p>
Statewide General Permit	There has been discussion about creating a single permit for military bases. What's the status of this discussion?	<p>Based on past experience, the State is uncomfortable with the idea of a single permit for all military bases.</p> <p>An alternative might be a formatted permit for region-wide facilities, with boilerplate sections for the six minimum requirements, making them specific for the uniqueness of the community/Air Force base.</p>
Illicit Discharge Detection	How does the State view activities related to firebreak creation? Would we need to obtain a storm water permit to construct a firebreak?	Mr. Fujimoto responded that the issue of firebreaks is not clear. Mr. Fujimoto offered to research the question.
General Permit Draft	When will the general permit draft be out?	Mr. Fujimoto replied that a draft of the general permit should be available next week (which has been said for some time now). The State is conducting three workshops related to the draft permit (7/30/02 in San Luis Obispo, 8/6/02 in Fresno, and 8/8/02 in Redding), so a draft permit would be needed at that time.

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Notification Process	Have small, already-designated MS4s been notified?	They have been informally notified by various regional boards and will be formally notified soon.
Co-Permitting	<p>(1) What about separate communities working as a group to obtain permits affecting mutual lands?</p> <p>(2) What about adjacent communities obtaining one permit?</p> <p>(3) What about liability in a co-permitting status with shared responsibilities and accountability?</p>	<p>(1) Mr. Fujimoto responded that he liked to see communities working together because it results in cost savings through sharing responsibilities and learning from each other. Also, it's easier to get a single message out to the general public made up of several municipalities.</p> <p>(2) Problems can occur in co-permitted situations. Obtaining one permit is not a favorable situation, unless there is a way to ensure appropriate progress of both communities.</p> <p>(3) A municipality is not held liable if the co-permittee fails to meet goals or was irresponsible.</p>
	What about an individual agency permit? DLA? AFB?	Mr. Fujimoto responded that the State is uncomfortable with that idea in terms of resource constraints. Some agencies are contemplating a region-wide permit.
	What are the fees for co-permits?	Phase I permits for large MS4s with combined populations of 100,000 or more cost approximately \$10,000. Examples include Los Angeles and Bakersfield. Phase I permits for smaller MS4s cost approximately \$5,000. Examples include Tahoe Basin and American Canyon.